

(1) Petition for Settlement of First and Final Accounting (2) and Final Distribution

DOD: 01/29/08 Cont. from 110111, 112811, 020612, 040212, 052112, 070912 <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:10%;"></td><td style="width:80%;">Aff.Sub.Wit.</td><td style="width:10%;"></td></tr> <tr><td>✓</td><td>Verified</td><td></td></tr> <tr><td>✓</td><td>Inventory</td><td></td></tr> <tr><td>✓</td><td>PTC</td><td></td></tr> <tr><td>✓</td><td>Not.Cred.</td><td></td></tr> <tr><td>✓</td><td>Notice of Hrg</td><td></td></tr> <tr><td>✓</td><td>Aff.Mail</td><td>w/</td></tr> <tr><td></td><td>Aff.Pub.</td><td></td></tr> <tr><td></td><td>Sp.Ntc.</td><td></td></tr> <tr><td></td><td>Pers.Serv.</td><td></td></tr> <tr><td></td><td>Conf. Screen</td><td></td></tr> <tr><td></td><td>Letters</td><td>04/06/09</td></tr> <tr><td></td><td>Duties/Supp</td><td></td></tr> <tr><td></td><td>Objections</td><td></td></tr> <tr><td></td><td>Video Receipt</td><td></td></tr> <tr><td></td><td>CI Report</td><td></td></tr> <tr><td>✓</td><td>9202</td><td></td></tr> <tr><td>✓</td><td>Order</td><td></td></tr> <tr><td></td><td>Aff. Posting</td><td></td></tr> <tr><td></td><td>Status Rpt</td><td></td></tr> <tr><td></td><td>UCC/JEA</td><td></td></tr> <tr><td></td><td>Citation</td><td></td></tr> <tr><td></td><td>FTB Notice</td><td>x</td></tr> </table>		Aff.Sub.Wit.		✓	Verified		✓	Inventory		✓	PTC		✓	Not.Cred.		✓	Notice of Hrg		✓	Aff.Mail	w/		Aff.Pub.			Sp.Ntc.			Pers.Serv.			Conf. Screen			Letters	04/06/09		Duties/Supp			Objections			Video Receipt			CI Report		✓	9202		✓	Order			Aff. Posting			Status Rpt			UCC/JEA			Citation			FTB Notice	x	<p>SHERRI VAUGHT, Administrator, is Petitioner.</p> <p>Supplemental Petition for Settlement of First and Final Accounting and Final Distribution filed 04/02/12 states:</p> <ol style="list-style-type: none"> The requirements of Revenue & Taxation Code § 480 have been satisfied by filing of a change of ownership statement with the County recorder or assessor. Notice is not required under PrC § 9202 (a) because the decedent did not receive Medi-Cal benefits, and 9202 (b) because no beneficiary is incarcerated. Petitioner sold the real property of the estate on 01/31/11 for a sale price of \$91,750.00. Notice of Proposed Action was given to decedent's heirs and consent was obtained from Victoria Rapp on 01/26/11. No objections to the sale were received. The sale resulted in net proceeds to the estate of \$8,777.17. Petitioner presents an amended Summary of Account as follows: <p>Account period: 04/06/09 – 03/01/12</p> <table style="width:100%;"> <tr> <td style="width:40%;">Accounting</td> <td style="width:10%;">-</td> <td style="width:50%;">\$166,000.00</td> </tr> <tr> <td>Beginning POH</td> <td>-</td> <td>\$166,000.00</td> </tr> <tr> <td>Ending POH</td> <td>-</td> <td>\$11,777.17</td> </tr> <tr><td colspan="3"> </td></tr> <tr> <td>Administrator</td> <td>-</td> <td>waives</td> </tr> <tr><td colspan="3"> </td></tr> <tr> <td>Attorney</td> <td>-</td> <td>waives</td> </tr> </table> <p>Distribution, pursuant to intestate succession, is to:</p> <table style="width:100%;"> <tr> <td style="width:40%;">Sherri Vaught</td> <td style="width:10%;">-</td> <td style="width:50%;">\$5,888.58</td> </tr> <tr> <td>Victoria Rapp</td> <td>-</td> <td>\$5,888.58</td> </tr> </table>	Accounting	-	\$166,000.00	Beginning POH	-	\$166,000.00	Ending POH	-	\$11,777.17				Administrator	-	waives				Attorney	-	waives	Sherri Vaught	-	\$5,888.58	Victoria Rapp	-	\$5,888.58	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>CONTINUED FROM 07/09/12 Minute Order from 07/09/12 states: No appearances.</p> <p>Order to Show Cause filed 07/27/12. Per Clerk's Certificate of Mailing, a copy of the OSC was mailed to the attorney and Administrator on 07/27/12.</p> <p>As of 08/29/12, the following notes remain:</p> <ol style="list-style-type: none"> The accounting is incomplete pursuant to Probate Code § 1061. The Accounting does not list receipts, distributions or other information required pursuant to Probate Code § 1061. Need revised accounting to include the relevant schedules (receipts/disbursements, etc.) or waiver of accounting from Victoria Rapp. Neither the Petition nor the Supplemental Petition state whether notice was given to The Franchise Tax Board as required per Probate Code § 9202 (c). <p>Reviewed by: JF</p> <p>Reviewed on: 08/29/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1A - Vaught</p>
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Order to Show Cause Re: Sanctions and Failure to Appear

DOD: 01/29/08		<p>SHERI VAUGHT, Administrator, filed a Petition for Settlement of First and Final Account and Final Distribution on 09/19/11.</p> <p>The matter has been continued 6 times since 11/01/11.</p> <p>Petitioner filed a Supplemental Petition for Settlement of First and Final Accounting and Final Distribution on 04/02/12.</p> <p>Minute Order from hearing on 05/21/12 set this matter for an Order to Show Cause and states: No appearances. The Court sets the matter for an Order to Show Cause re: Sanctions and Failure to Appear on 07/09/12. The Court orders Daniel Bruce to be personally present with the administrator on 07/09/12.</p> <p>Minute Order from 07/09/12 states: No appearances.</p> <p>Order to Show Cause filed 07/27/12. Per Clerk's Certificate of Mailing, a copy of the OSC was mailed to the attorney and Administrator on 07/27/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 07/09/12</u></p> <p><u>Note to Judge:</u> It appears that no Order to Show Cause was prepared and/or served on the attorney or Administrator.</p>
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		<p>Reviewed by: JF</p> <p>Reviewed on: 08/29/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1B - Vaught</p>	

**Probate Status Hearing Re: Filing of First Account or Petition for Final Distribution
(Prob. C. §12200, et seq.)**

DOD: 8/31/2010			<p>PAUL A. FILLION was appointed as Executor of the Estate with full IAEA Authority and without bond on 11/15/10.</p> <p>Corrected I & A filed on 9/23/11 showing the estate value as \$125,000.00</p> <p>First account or petition for final distribution was due 11/15/11.</p> <p>This status hearing was set for the filing of the first account or petition for final distribution.</p> <p>A copy of the Notice of Status Hearing was mailed to Paul A. Fillion on 9/26/11.</p> <p>Minute Order (Judge Bruce Smith) dated 1/23/12 states Mr. Fillon advises the court that he just listed the house for sale. He further advises the Court that he needs to obtain counsel. The Court orders Mr. Fillon to file and serve the first account by 2/14/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need current status report, first account or petition for final distribution.</p>
Cont. from 012312, 022212, 062112				
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Reviewed by: KT				
Reviewed on: 8/29/12				
Updates:				
Recommendation:				
File 2 - Fillion				

Atty
AttyFanucchi, Edward L. (for Gerald Ishii – Beneficiary – Petitioner)
Marshall, Jared (for Leslie Ishii – Co-Trustee – Respondent)

Petition of Beneficiary to Remove Successor Co-Trustees, Appoint Temporary Successor Trustee, and for Payment of Attorneys' Fees and Costs (Probate Code 15642, 16000, 16002, 16003, 16004, 16006, 16007, 16009, 16060, 16062, 17200, 17206)

Frank K. Ishii DOD: 11-10-93	GERALD ISHII, Beneficiary and Co-Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
Lily Y. Ishii DOD: 3-7-05		
	Petitioner states he and LESLIE ISHII (Respondent) were named successor co-trustees of the ISHII FAMILY TRUST DATED 3-3-92 (the "Trust") . The Trust consisted of interests in 8 parcels of real property, stocks, bonds, securities, cash, and other assets in Prudential-Bache Securities, and 300 shares of common stock in Frank K. Ishii & Sons, Inc. , a California corporation owned by the Settlor.	<u>Continued from 7-2-12 and 7-27-12 per stipulation and ex parte request.</u>
Cont. from 070212, 072712	At the death of Frank K. Ishii on 11-10-93, two irrevocable and one revocable sub-trusts were created:	<u>Examiner's Note Re format of Petitioner's documents:</u> Please consider providing a larger top margin so that the top line of each page is readable without removing all documents from the Court file.
Aff.Sub.Wit.	<ul style="list-style-type: none"> The FRANK K. ISHII TRUST The ISHII FAMILY MARITAL DEDUCTION TRUST The ISHII FAMILY SUIVOR'S TRUST (revocable) 	1. Need order.
✓ Verified		
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FTB Notice	<p>On 3-15-95, Lily Ishii, individually and as Trustee of the Trust, assigned a 36.44% interest to the FRANK K. ISHII TRUST, a 13.56% interest to the ISHII FAMILY MARITAL DEDUCTION TRUST, and a 50% interest to the ISHII FAMILY SUIVOR'S TRUST of the assets listed on Exhibit F, including accrued rent payable from the corporation of \$105,548 as of 11-10-93, a receivable due from the corporation of \$26,089 as of 11-10-93, and a proprietorship known as Lily's Hair Stylists consisting of furniture and fixtures, cash, supplies, inventory and goodwill.</p> <p>Lily Ishii died on 3-7-05 and he and LESLIE ISHII (Respondent) became Co-Trustees.</p> <p>Pursuant to Section 5.02 of the Trust, the three sub-trusts were to be combined on the death of the surviving settlor and certain distribution was to occur:</p> <ul style="list-style-type: none"> \$75,000.00 to Sharon J. Shoji (daughter) One-half of the remaining balance to Gerald One-half of the remaining balance to Leslie 	
SEE PAGE 2		
		Reviewed by: skc
		Reviewed on: 8-29-12
		Updates:
		Recommendation:
		File 3 - Ishii

PAGE 2

As to the corporation: Petitioner and Leslie each hold 300 shares individually and the Trust holds 300 shares. Petitioner and Leslie as individuals and as Co-Trustees may vote an equal number of shares, but have been in a deadlock as to the operation of the corporation since approx. 2007. As such, the corporation's status has become suspended with many tax liabilities remaining outstanding, which continues to decrease the value of the corporation.

A meeting of the directors of the corporation was noticed on 6-3-10 by Gerald, who is secretary; however, the meeting did not occur because Leslie found the principal place of business of the corporation to be an inconvenient meeting location, although it is approx. one mile from her home. No meetings have occurred since. Because the corporation is one-third owned by the trust, the deadlock between the Co-Trustees is impairing the administration of the Trust and causing trust assets to lose value.

Petitioner requests that the Court remove both Co-Trustees of the Trust and subtrusts because due to hostility and lack of cooperation among Co-Trustees, administration of the Trust and sub-trusts continue to be impaired and trust assets neglected. Probate Code §§ 15642(a)(3), 17200(b)(10). The Trust does not appoint a successor trustee in the event of removal; rather, it provides only the manner of successor appointments should one of the two become unable to perform. Petitioner requests appointment of **BRUCK BICKEL** as Successor Trustee with compensation to be approved by the Court. Mr. Bickel consents to act. Petitioner requests appointment without bond for one year to allow the corporate affairs to be brought to order, with authority to apply for an extension by Mr. Bickel should the corporate affairs remain unresolved and the Trust assets undistributed. Petitioner believes this appointment is in the best interests of the Trust and sub-trusts, and those persons interested in the Trust estate.

Petitioner requests that:

- 1. The Court temporarily and partially remove Gerald Ishii and Leslie Ishii as Co-Trustees of the ISHII FAMILY TRUST DATED 3-3-92;**
- 2. The Court appoint Bruce Bickel as temporary Successor Trustee to serve without bond for a period of one year, with the ability of Mr. Bickell to petition the Court for additional time should the corporate affairs remain deadlocked;**
- 3. The Court award reasonable compensation to the temporary Successor Trustee;**
- 4. The Co-Trustees to deliver the Trust assets to the temporary Successor Trustee within 30 days after issuance of an Order;**
- 5. The Court order Leslie Ishii to file an accounting with the Court detailing their respective acts as Co-Trustees no later than four weeks after the Court makes its order;**
- 6. The Court order Petitioner's attorneys' fees in the amount of \$1,000.00 and costs advanced to be paid to such attorneys directly from the Trust, to be charged 100% to income, and paid within 10 days after the Court makes its order; and**
- 7. Such further orders as the Court deems proper.**

SEE PAGE 3

PAGE 2

Objection of LESLIE ISHII states this probate proceeding is not the proper forum or vehicle to resolve such corporate issues. This lawsuit is premature at best and legally inapposite to the issues it proposes to resolve at worst. The corporation is deadlocked; however, the instant petition filed as a trust proceeding does not request any form of relief that will serve to end the shareholders' deadlock and restore the corporation to operational status. Specifically, the appointment of a neutral third party trustee will not resolve any issues with regard to the operation of the corporation. While a trustee may have the right to vote shares of stock held in trust, a trustee's paramount duty is to distribute trust property pursuant to the terms of the trust instrument. Here, the trust instrument requires the residue be distributed one-half each to Petitioner and Respondent. If a neutral third party trustee is appointed, he will be obligated to distribute the shares held in trust accordingly, not to vote the shares, and, in effect run the business of the corporation.

Respondent has no objection to the immediate equal distribution of the shares of the corporation currently held in trust. In the likely event that said distribution does not resolve the deadlock, however, Petitioner's only recourse will be to file a lawsuit for involuntary dissolution in the unlimited civil department of the Superior Court.

Respondent requests that the Court issue an order requiring the Co-Trustees to immediately distribute 150 shares of Frank K. Ishii & Sons, Inc., each to Petitioner and Respondent, and for reasonable attorneys' fees and costs incurred herein.

Alternatively, Respondent requests the Court issue an order removing Petitioner and Respondent as Co-Trustees, but only as to their fiduciary ownership of the Trust's 300 shares of Frank K. Ishii & Sons, Inc.; appointing Bruce Bickel as temporary successor trustee without bond solely for the purpose of administering the Trust's 300 shares of Frank K. Ishii & Sons, Inc.; authorizing Mr. Bickel to petition to continue to serve should it be in the best interests of the beneficiaries or the affairs of the corporation that he remain in such role; awarding reasonable compensation to the temporary Successor Trustee; requiring the Co-Trustees to deliver the shares of Frank K. Ishii & Sons, Inc., to the temporary Successor Trustee by a date certain; for reasonable attorneys' fees and costs incurred herein; and for any and all other relief the Court deems just and proper.

Atty Kruthers, Heather H. (for Public Guardian – Conservator of the Estate)

Atty Motsenbocker, Gary L. (for Catherine Foin – Previous Co-Conservator of the Person)

Atty Amador, Catherine A. (for Susan Schlievert – Previous Co-Conservator of the Person and Objector)

Status Hearing Re: Settlement Agreement

Age:			NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR</u> Order After Mandatory Settlement Conference was filed 8-16-12. Minute order 7-10-12: Parties reach a settlement agreement as fully set forth on the record by Ms. Amador. Parties agree that the Holographic Will will be followed by the Public Guardian with respect to the distribution to the grandchildren and the debts owed, but will not admitted into Probate. Parties further agree that ownership of the condo will be held in joint tenancy by Catherine Foin, Elizabeth Foin, and Owen Foin III by operation of law. Upon inquiry by the Court, each party individually agrees to the terms and conditions of the settlement. Mr. Motsenbocker is directed to prepare the agreement and submit it to Ms. Amador by 7/24/12 for review. Execution of the agreement to be completed by 8/7/12. Matter is set for Status Hearing regarding the settlement agreement on 8/31/12. If the agreement is executed and signed by 8/31/12, no appearance will be necessary.
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Citation			
FTB Notice			
		Reviewed by: skc Reviewed on: 8-29-12 Updates: Recommendation: File 4 - Foin	

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq.)

DOD: 12/14/06	<p>JOANNE MILLER, sister, was appointed Administrator and Letters were issue on 07/17/07.</p> <p>Inventory & Appraisal - \$185,000.00 filed 07/09/07.</p> <p>Notice of Status hearing filed 05/15/12 set this matter for status on 06/27/12. Clerk's Certificate of Mailing states that the Notice of Status hearing was mailed to Joanne Miller and Philip Flanigan on 05/15/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 06/27/12</u> Minute order from 06/27/12 states: Counsel requests a continuance.</p> <p>As of 08/29/12, no additional documents have been filed and the following remains outstanding:</p> <ol style="list-style-type: none"> 1. Need First Account and/or Petition for Final Distribution.
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UCCJEA		
Citation		
FTB Notice		
<p>Reviewed by: JF</p> <p>Reviewed on: 08/29/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5 - Murchison</p>		

Status Hearing Re: Property

		<p>DAVID D. GRABER, Son and Executor with Full IAEA with bond of \$564,000.00, petitioned the court to purchase the estate's real property for \$275,000.00.</p> <p>On 6/28/12 the court confirmed the sale and set this status hearing regarding the property.</p> <p>Status Report of Attorney Richard Hemb filed on 8/28/12 states the remaining administrative activities involve the disposition of real property. Decedent's real property in Madera County was appraised at \$80,000.00. The asking price was \$60,000.00 but received no interest. Proceeding with the closing of the estate and requesting a court order conveying titled to each residual beneficiary may not be possible because it is not a position favored by <u>all</u> beneficiaries. The real estate broker has noted movement in this area at a level of \$25,000.00. The personal representative has now instructed the agent to market the property at that level.</p> <p>The Court approved the sale of the decedent's real property in Fresno to the personal representative on 6/28/12. At one time Mr. Graber was pre-approved for a loan to be used toward the purchase. Because of the delayed process of obtaining court approval to make the purchase, Mr. Graber proceeded to refinance his current residence as a first step in obtaining financing to be used for the current purchase of the decedent's residence. The lender indicated that for internal purposes a three month delay is required. Accordingly, the loan for the purchase of the decedent's residence cannot be completed until the end of September of this year.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
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	UCCJEA		
	Citation		
	FTB Notice		
		<p>Reviewed by: KT</p> <p>Reviewed on: 8/28/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6 - Graber</p>	

Probate Status Hearing Re: Filing of Inventory and Appraisal

		<p>MYRNA M. BOWMAN was appointed as conservator of the person and estate without bond on 9/28/11.</p> <p>Letters issued on 10/7/11.</p> <p>Inventory and appraisal filed on 4/11/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 7/11/12. Minute order states no appearances. The court continues the matter to 8/31/12 and orders Mark Bowman to be personally present on that date. The court directs that a copy of the examiner notes be sent to Mark Bowman. A copy of the minute order and a copy of the examiner notes were mailed to Mark Bowman on 7/27/12. As of 8/28/12 the corrected inventory and appraisal has not been filed and the following issues remain:</p> <ol style="list-style-type: none"> 1. Inventory and Appraisal filed on 4/11/12 is defective as follows: <ol style="list-style-type: none"> a. Is not signed by the attorney. b. Assets (including money market account, real property, personal belongings and a sailboat) need to be appraised by the probate referee. <p>Need corrected Inventory and Appraisal.</p>
Cont. from 030712, 042512, 060612, 071112			
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<input type="checkbox"/>	FTB Notice		
		Reviewed by: KT	
		Reviewed on: 8/28/12	
		Updates:	
		Recommendation:	
		File 7- Robbins	

Atty Kruthers, Heather H. (for Public Guardian – Conservator of the Estate)

Atty Motsenbocker, Gary L. (for Catherine Foin – Previous Co-Conservator of the Person)

Atty Amador, Catherine A. (for Susan Schlievert – Previous Co-Conservator of the Person and Objector)

Status Hearing Re: Settlement Agreement

Age:			NEEDS/PROBLEMS/COMMENTS:
DOD:			
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			<u>OFF CALENDAR</u>
			<u>Minute Order 7-10-12</u> : The Court notes for the record that Ms. Kruthers was previously present. Also present in the courtroom is Susan Schlievert. Petition is withdrawn and dismissed per the settlement agreement. (See related case #07CEPR00088 for further details). Petition is dismissed without prejudice before Court Trial.
			Reviewed by: skc
			Reviewed on: 8-29-12
			Updates:
			Recommendation:
			File 8 - Foin